

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Promoting Efficient Use of Spectrum)	
Through Elimination of Barriers to the)	WT Docket No. 00-230
Development of Secondary Markets)	

**REPLY COMMENTS OF
DYNEGY GLOBAL COMMUNICATIONS, INC.**

Dynegy Global Communications, Inc. (“DGC”) submits its Reply Comments in response to various initial Comments filed regarding the Commission’s *Notice of Proposed Rulemaking* (“*Notice*”), released November 27, 2000¹.

DGC “seconds” a number of commenters in this proceeding who urge the Commission to allow for the emergence and development of a secondary market in wireless spectrum. Promoting the development of secondary markets will spur competition among telecommunications companies and create efficiencies in spectrum utilization.

I. INTRODUCTION

DGC’s corporate parent, Dynegy Inc. (“Dynegy”) (NYSE: DYN) is a leading provider of energy and communications solutions to customers in North America, the United Kingdom and Europe. Dynegy has extensive first-hand experience in markets similar to the secondary market the Commission may envision in wireless spectrum. Dynegy’s predecessor, Natural Gas Clearinghouse (NGC), was formed in the wake of an oversupply of costly natural gas being sold by interstate pipelines in the early 1980’s. The company participated in the metamorphosis of the gas industry from a lumbering, heavily regulated business to a highly competitive and

¹ *Promoting the Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, WT Docket No. 00-230, *Notice of Proposed Rulemaking*, FCC 00-403 (rel. Nov. 27, 2000) (“NPRM”).

efficient industry. And, it was one of the first companies to enter into secondary market participation in natural gas transmission markets on the heels of the Federal Energy Regulatory Commission's Order 636, which required gas pipelines to exit the merchant function and provide open access transportation for shippers.

Dynegy's corporate strategy goes well beyond simple trading. As natural gas competition heated up, Dynegy acquired gas gathering and processing assets to back up and to complement its trading operations. Now, Dynegy ranks as one of the largest processors of natural gas liquids in the country.

The deregulation of the electricity industry, a business that eclipses natural gas in size and opportunity, became the next growth opportunity for Dynegy. Again, Dynegy has put its money where its mouth is: The company today owns or controls as much power generation as a large utility. Although still evolving, the electric industry is brimming with potential as a competitive marketplace and, hopefully, will follow in the footsteps of the gas industry as a model for light-handed regulation. Through its asset and trading strategy, Dynegy, with \$29 billion in annual revenues and a market capitalization of \$15 billion, enjoys a leadership role in marketing and trading natural gas, electricity, natural gas liquids and coal, and has several other businesses that round out what has become known as *energy convergence*.

With its recent acquisition of Extant, Inc., European provider iaxis Ltd. and certain arrangements with Level 3 Communications, LLC, DGC has staked out an asset platform for growth of its communications network. What was once the concept of *energy convergence* has become a reality; soon, the "energy" qualifier may be dropped in recognition of the convergence of many services and products.

DGC has already begun to deploy this expertise in the telecommunications marketplace. Through Dynegyconnect, it provides carrier grade transport solutions, OSS Interconnect software, wholesale DSL ISP services and clearinghouse solutions to competitive local exchange companies (CLECs), Internet service providers (ISPs), network service providers (NSPs) and other integrated communications providers (ICPs). At the heart of DGC's services is a high-speed, optical mesh backbone which creates a powerful combination of optical transport reliability and high-bandwidth, multi-protocol flexibility ranging in capacity from DS3 to OC192.

In addition, Dynegy has created Dynegydirect, an Internet-based business-to-business portal and trading site for energy and communications commodities. Dynegydirect will provide customers the ability to create personalized "trading floors." These highly configurable floors will enable customers to group products in a customized fashion for convenient access. There is no limit to the number of floors that can be established and multiple floors can be tiled on the monitor for full viewing. Dynegydirect's real-time price updates will allow customers to instantaneously see price changes on all their floors, enabling them to make immediate decisions on prices and volumes. An on-line preview of the site is available at www.Dynegy.com.

II. DISCUSSION

The Commission's initiative to discuss the removal of unnecessary regulatory impediments to telecommunications access and to promote the development of secondary markets for spectrum usage is laudable. As the growth in data transmission grows exponentially and the demand for spectrum increases, the limited amount of spectrum available must be utilized to its fullest extent. Absent full utilization, many consumers, particularly those in

densely populated areas, may be denied access to what is becoming a staple in every American's diet - information. If past experience is prologue, creating (and promoting the development of) a secondary market will help alleviate these constraints and provide the reliable service that all of us have come to expect from our communications media.

Creating a secondary market does more than establish a competitive playing field – it opens doors to financial and intellectual capital that would otherwise be focussed on other investments. Additional, significant benefits to improving access to spectrum via secondary markets include improved price certainty through market-based pricing, availability of a broad array of financial hedging services once a liquid secondary market can evolve, promoting capital investment, and reducing the cost of capital for market participants. All of these benefits make investments in the communications industry attractive and can yield huge dividends for our nation's infrastructure and capabilities.

Although it is an early entrant, DGC is not alone in the rapidly growing marketplace for bandwidth trading. A number of other entities have begun developing products and services including trading floors, brokerages and pooling points. The market is moving toward trading not only capacity itself but also futures and other options. One of Dynegy's biggest competitors in the energy sector, Enron, has also entered the bandwidth trading marketplace. Enron has submitted Initial Comments to this NPRM², and DGC generally supports Enron's initial comments and encourages the Commission to fully explore the concepts presented in those comments. One element necessary for a successful marketplace was not discussed by Enron and bears attention here.

Creating a secondary market in spectrum requires the same rules as developing a secondary market in any business – every market participant has a fair shot at obtaining the

desired services. As a participant in the development of both the gas and power markets, Dynegy has seen the advantages of federal oversight in terms of market monitoring (policing) and controlling the incumbents' ability and desire to limit activity in their own "backyards". A targeted, limited, yet effective market monitoring function must address two major concerns:

First, the industry would benefit from establishing clear rules with respect to dealings between corporate affiliates in the secondary market. Drawing on its energy experience, the natural gas industry allowed the corporate holding companies of pipelines to maintain ownership of marketing entities that could buy and sell services on affiliated pipelines. The temptation and rewards of self-dealing are great and have been, in some cases, too great to resist. Structuring the market to avoid improper intra-corporate dealings will encourage market participation and ensure market-based prices for services.

A second aspect of this market monitoring function is to ensure access to spectrum on a national basis. Again, the energy business provides a helpful analog. In relative terms, the natural gas market evolved in a simpler fashion than the electricity market (which is still in a painful transition). The biggest difference is the national scope of natural gas pipelines (regulated by the Federal Energy Regulatory Commission) and the more localized nature of power utilities (mostly regulated by state commissions). Access to local electric markets and exportation of power to other states, for example, have been difficult on several fronts due to competing local interests. The natural gas industry had relatively few problems through its transition to a competitive market due to the national scope of the orders handed down to pipelines that traversed several states and thousands of miles.

In the telecommunications industry, the Commission shares jurisdiction with local regulatory commissions. Ensuring that the regulatory "seams" between federal and local

² See Initial Comments of Enron Corp., dated February 9, 2001.

regulatory authorities are tightly stitched is essential to the proper development of the market, and a broader market is greatly preferred to a limited geographic market. The appropriate regulatory model would ensure that local interests cannot preclude competitors from entering their service territories. To the extent the Commission can oversee access to and from markets across the country, it will encourage new market entrants and enhance the efficiencies of the spectrum market.

III. CONCLUSION

The Commission's efforts to facilitate the creation of an effective, efficient secondary market in wireless spectrum will, if successful, assure access to needed services and products. The Commission has correctly identified a number of areas in which existing regulatory requirements would significantly hamper the emergence of such a market. DGC urges the Commission to follow through with its efforts to remove these impediments to the maximum extent consistent with the Act.

Respectfully submitted,

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March 12, 2001